

UNITED STATES COURT OF APPEALS February 16, 2010
FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

STICHTING MAYFLOWER
MOUNTAIN FONDS; STICHTING
MAYFLOWER RECREATIONAL
FONDS,

Plaintiff-Counter-
Defendants - Appellants,

v.

UNITED PARK CITY MINES, CO.,

Defendant-Counter-
Claimant - Appellee,

CITY OF PARK CITY, UTAH,

Defendant,

v.

ARIE CORNELIS BOGERD, an
individual and citizen of Hei-en
Boeicop, Netherlands;
MAYFINANCE CV, a Netherlands
commanditaire vennotschap;
STICHTING BEHEER MAYFLOWER
PROJECT, a Netherlands Foundation,

Counterclaim-
Defendants - Appellants.

No. 09-4187
(D.C. No. 2:04-CV-00925-DAK)
(D. of Utah)

ORDER

Before **TACHA, BRISCOE**, and **MURPHY**, Circuit Judges.

This appeal is dismissed for lack of jurisdiction. At the time the notice of appeal was filed, the district court had not entered a final appealable order. *See Nolan v. U.S. Dept. of Justice*, 973 F.2d 843, 846 (10th Cir. 1992) (“Merely submitting a final district court order for the purpose of perfecting a premature appeal does not automatically effectuate the appeal of every judgment or order rendered in the entire case.”).

Therefore, this court lacks jurisdiction over the imposition of sanctions. *See D & H Marketers, Inc. V. Freedom Oil & Gas*, 744 f.2d 1443, 1445-46 (10th Cir. 1984) (parties may not file interlocutory appeals from the imposition of sanctions) *See also Cunningham v. Hamilton County*, 527 U.S. 198, 210 (1999) (“we conclude that a sanctions order imposed on an attorney is not a ‘final decision’ under § 1291”); *G.J.B. & Associates, Inc. v. Singleton*, 913 F.2d 824, 827 (10th Cir. 1990) (“[A] sanction order against an attorney currently of record is not a final decision for purposes of a [28 U.S.C.] § 1291 appeal where the underlying controversy remains unresolved.”)

The court also lacks jurisdiction over the district court’s entry of default judgment as to liability. *See Albright v. UNUM Life Insurance Co.*, 59 F.3d 1089, 1092093 (10th Cir. 1995) (an order which determines liability only and leaves damages to be calculated is not final).

The parties argue that since judgment has been entered the jurisdictional issue here is moot. However, if the judgment is final, a new notice of appeal must be filed. *See Nolan*, 973 F.2d at 846 (10th Cir. 1992).

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Ellen Rich Reiter".

Ellen Rich Reiter
Deputy Clerk/Jurisdictional Attorney